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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

FINAL DECISION AND ORDER

GLEN M. WITTER, :
SECURITY REALTY OF WAUSAU, INC. :
RESPONDENT. :

LS0910293REB

Division of Enforcement Case #07 REB 57

The parties to this action for the purposes of Wis. Stat. § 227.53, are:

Glen M. Witter
221 Stewart Ave
Wausau WI 54401

Security Realty of Wausau Inc
221 Stewart Ave
Wausau WI 54401

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Glen M. Witter, (d.o.b. 2/21/55), is and was at all times relevant to the facts set forth herein a real estate broker licensed in the State of Wisconsin pursuant to license #21899-90, originally granted on 4/18/79. Respondent Witter is the sole owner of Respondent Security Realty of Wausau, Inc., license #28916-91, granted 6/9/83. Respondent Witter was reprimanded by the Board on 12/6/90, in file 89 REB 85, for transferring buildings without the required weatherization being performed, and without the proper forms being completed (or, in other instances, which were incomplete).
2. On 10/2/06, a sales agent employed by Respondents drafted an Offer to Purchase a single family home, as a seller's agent (another agent in her firm had the listing). She received and deposited \$1,000 as earnest money, in her firm's trust account. The Offer provided for an inspection contingency, and a closing date of 11/1/06, and was accepted on 10/4/06.
3. The inspection took place within the time specified, and resulted in the buyer's giving a notice that because of the deficiencies found during the inspection, an \$850 credit would be required to waive the contingency. This Notice was drafted by the agent, and sent to the seller on 10/13/06.
4. The seller did not respond to the Notice until 10/23/06, at which time she accepted the proposal. The buyer communicated this information to her loan officer promptly.
5. Because of this delay in determining the final price, the buyer's loan officer requested that the closing be delayed (as

financing was to be provided through WHEDA); this was communicated to Respondent by the loan officer. The agent did not draft an Amendment which provided for such a delay, and Respondents did not require her to draft one.

6. Notwithstanding the absence of an amendment, the buyer's loan officer proceeded with the financing process, and discovered a judgment which was a lien on the seller's property. The agent informed the buyer that clearing this would require an additional delay. The buyer then declined to proceed further, and requested, on 11/22/06, that the Offer be cancelled and her earnest money returned.

7. Respondents refused to return the earnest money, and referred the matter to an attorney for an opinion, as provided in the Offer to Purchase. Respondents failed to notify the buyer of her earnest money rights and that an attorney had been asked to review the file. Respondents then failed to notify buyer of the attorney's decision as called for in the Offer, and to give her 30 days to refute the attorney's findings.

CONCLUSIONS OF LAW

A. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 425.14(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

B. By failing to require the sales agent to draft an amendment for a new closing date, as described in paragraph 5, above, Respondent violated Wis. Adm. Code §§ RL 17.08 and 24.13(1). By failing to provide 30 days notice of disbursement of the earnest money, as described in paragraph 7, above, Respondent violated Wis. Adm. Code § RL 18.09(3). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Glen M. Witter is REPRIMANDED for his unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that Respondents Witter and Security Realty of Wausau, Inc., shall jointly and severally FORFEIT the sum of \$250, within 60 days of this Order.

IT IS FURTHER ORDERED, that Respondent Witter's license is LIMITED in the following respects: no later than 12/31/09, he shall demonstrate satisfactory completion of no less than 6 hours of continuing education in the area of trust accounts [see RL 25.02(2)(c)] and financial and office management [see RL 24.02(2)(e)]. None of these hours may be use to satisfy the continuing education requirement for renewing the license, and these hours shall be in addition to the requirements of Wis. Stat. § 452.12(5)(c)1., and Wis. Adm. Code § RL 25.065.

IT IS FURTHER ORDERED, that Respondents shall, jointly and severally, pay COSTS in the amount of \$800, within 60 days of this Order.

IT IS FURTHER ORDERED, that pursuant to Wis. Stat. § 227.51(3), and Wis. Adm. Code ch. RL 6, violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondents fail to timely submit full payment of the forfeiture and costs as set forth above, or Respondent Witter fails to comply with the ordered continuing education, Respondents' licenses SHALL BOTH BE SUSPENDED, without further notice or hearing, until Respondents have paid both the forfeiture and costs in full, together with any accrued interest, and Respondent Witter has demonstrated completion of the continuing education.

Dated this October 29, 2009.

WISCONSIN REAL ESTATE BOARD, by:

Peter Sveum

a member of the board